

**VIRGINIA BOARD OF NURSING
MINUTES
September 20, 2005**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:07 A.M. on September 20, 2005, in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Judith E. Piersall, R.N., B.S.N., President

**BOARD MEMBERS
PRESENT:** Lynne M. Cooper, Citizen Member, Vice President
Gregory J. Huber, R.N., M.S.N., Secretary
Brenda L. Hale, R.N.
Woody B. Hanes, R.N., M.S.N., F.N.P.
John M. Horn, L.P.N.
Florence Jones-Clarke, R.N., M.S. (joined later)
Patricia C. Lane, R.N.
Lawrence L. Logan, Citizen Member
G. Maxine Ponn, L.P.N.
Patricia M. Selig, R.N., F.N.P., Ph.D.
Brenda L. Spady, L.P.N.

**BOARD MEMBER
ABSENT:** Linda D. Gross, Citizen Member

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director, Nurse Aide Registry Manager
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Cindy Cochran, R.N., Discipline Case Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General
Robert A. Nebiker, Director, Department of Health Professions
Elaine Yeatts, Policy Analyst, Department of Health Professions
Jan Johnson, Executive Director, Virginia Nurses Association

**ESTABLISHMENT OF
A QUORUM:** With 11 members of the Board present, a quorum was established.

ANNOUNCEMENTS:

- Welcome of new Board member Patricia Lane, R.N., B.S.N.
- Department of Health Professions new Board Member orientation is October 27, 2005
- Next meeting of the Committee of the Joint Boards of Nursing and Medicine is October 19, 2005

DIALOGUE WITH
AGENCY DIRECTOR:

Mr. Nebiker provided information on Executive Order 97, the Emergency Management Assistance Compact, and how Boards are assisting those displaced by Hurricane Katrina with issues such as licensure to practice in Virginia and filling prescriptions. Also stated there is a continuing operation plan in place for the Department of Health Professions in case of a situation that rendered the building inaccessible. The Board of Nursing is on track with the requirements of HB2512 regarding long term care and the regulation of medication aides. The Board of Health Professions has reviewed and has endorsed the proposed budget and the Department of Health Professions will continue with the approval process.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed one item from the proposed consent agenda and adopted a motion by Ms. Cooper to accept the remaining items which include:

- July 18, 2005 – Panel – Ms. Piersall
- July 20, 2005 – Full Board – Ms. Piersall
- July 21, 2005 – Panel – Mr. Huber
- July 26, 2005 – Telephone Conference Call – Ms. Piersall
- August 19, 2005 – Telephone Conference Call – Ms. Piersall

Mr. Huber moved to adopt the minutes below as corrected.
The motion was seconded and carried unanimously.

- July 19, 2005 – Board Meeting – Ms. Piersall

Ms. Jones-Clarke joined the meeting.

REPORTS:

Board of Health Professions:

Ms. Cooper discussed the meeting held September 8, 2005. Topics included:

- election of chair and vice chair
- caseload standards, positive and negative processes
- budget review
- decision not to regulate naturopaths

Medication Aide Task Force:

Ms. Cooper discussed the meeting held September 7, 2005. Topic included:

- comparison of scope of practice of medication aides and nurse aides
- review of draft of regulation
- unlike nurse aides, there is no federal funding for medication aides
- continuing education requirements

The next meeting is scheduled for October 25, 2005.

Ms. Douglas added that the Task Force may recommend a fee for program approval.

Nurse Licensure Compact (NLC):

Ms. Douglas provided information regarding:

- discipline staff workshop being planned with NCSBN

- the core compact requirements and criminal background check as a pre-licensure requirement
- discussion among compact and non compact states regarding states affected by Hurricane Katrina. States belonging to the NLC and states using NURSIS have been more readily able to license and authorize practice for nurses who have been displaced.

NCSBN Delegate Assembly:

Ms. Piersall reported the meeting held in August was very informative. Ms. Piersall reviewed for the Board the content of the position papers adopted by the NCSBN to include:

- Clinical Instruction in Pre-licensure Nursing Programs Position Paper
- Using Criminal Background Checks to Inform Licensure Decision Making Position Paper
- Working with Others: Delegation Position Paper
- Report of Commitment to Ongoing Regulatory Excellence (CORE) Project
- Advanced Practice Presentation – APRN Advisory Panel

Mr. Nebiker suggested that legislation may be required if Boards decide to do criminal background checks.

OTHER MATTERS:

Consideration of Random Audit of Nurse Practitioner Protocols:

Ms. Douglas discussed the difference between practice agreements and protocols. Anecdotal information received by staff indicates that in many instances protocols are not always in place or are not accessible in the practice location. After discussion by the Board Members, Mr. Huber moved that the consideration of a random audit of nurse practitioner protocols be brought before the Committee of the Joint Boards of Nursing and Medicine meeting on October 19, 2005. The motion was seconded and carried unanimously.

Consideration of NCSBN Online Course:

Mr. Huber reported the course has been completed and formatted by NCSBN and moved that the Board accept it as continuing education as an online course with NCSBN. The motion was seconded and carried unanimously.

RECESS:

The Board recessed at 10:05 A.M.

RECONVENTION:

The Board reconvened at 10:23 A.M.

Sanction Reference Study:

Neal Kauder provided the background information and the current status of the study. The next phase for the Board of Nursing is a review of the factor analysis and to develop draft worksheets. Ms. Hanes moved for the Discipline Committee to proceed with the next phase of the Sanction Reference Study. The motion was seconded and carried unanimously.

Guidance Document – Board of Nursing and Department of Health:

Ms. Power reviewed the proposed document and stated the Department of Health has approved it. Ms. Hale moved that the Board of Nursing adopt the proposed guidance document “Impact of Criminal Convictions on Nursing Licensure and

Employment in Virginia”. The motion was seconded and carried unanimously. The Board discussed the usefulness of this document to employers and schools of nursing.

Board of Nursing Newsletter:

Ms. Douglas invited all interested Board members to submit information and ideas for content for the newsletter. Ms. Hanes volunteered to assist with the Board of Nursing newsletter development.

NCSBN CORE Project:

Ms. Douglas reviewed the CORE Project purpose of a way to measure a Board’s effectiveness by determining best practices. Participation requirements were discussed, sample documents and phases of development were reviewed. Discussion of concerns and ideas from Board members included confidentiality of source of complaints, survey question content and how participation would benefit the Board. A committee will be established to study the subject in greater detail and make a recommendation about future participation in the CORE project. Ms. Jones-Clarke agreed to serve as committee chair.

Code of Conduct:

Ms. Piersall reviewed the Board of Nursing Code of Conduct document that was adopted by the Board in 2001 and encouraged Board members to be aware of its content.

Nursing Workforce Online Survey:

Dr. Saxby provided a revision of the current nursing workforce survey and asked the Board to consider stopping the current survey and to implement changes that would be available with January 2006 online renewals. Ms. Hanes moved that Board adopt the changes submitted by Dr. Saxby. The motion was seconded and carried unanimously.

NCSBN English Proficiency Recommendations:

Ms. Ressler provided the letter of recommendation from NCSBN regarding the minimum standards as information only

Conflict of Interest Training:

Ms. Douglas reminded Board members that have not completed the training to do so as soon as possible.

2006 Informal Conference Schedule:

Ms. Douglas asked Board members to meet with Ms. Power and Ms. Rosen as soon as possible to establish dates to hold informal conferences in 2006.

Ms. Power and Dr. Saxby left the meeting.

RECESS:

The Board recessed at 12:10 P.M.

RECONVENTION:

The Board reconvened at 1:15 P.M.

REGULATIONS:

Chart of Regulatory Action:

Ms. Yeatts provided a summary of the current status of Board regulations. Ms. Yeatts reported that the Medication Aide Task Force had met on July 12, 2005 and September 7, 2005 and that a working draft of the regulations will be available at the next meeting.

Publication of Notice of Intended Regulatory Action:

- Chapter 20 – Nursing
- Chapter 25 – Nurse Aide
- The public comment period for the periodic review will be September 19, 2005 through October 19, 2005.

Adoption of Final Regulations on Fee Increase for Certified Nurse Aides:

Ms. Cooper moved that the Board adopt the response to comments as prepared by staff.

Mr. Huber moved that the Board adopt the final regulations to increase nurse aide fees from \$45.00 to \$50.00 per biennium.

Response to Petition for Rule Making:

The petition received to create an inactive license status was reviewed, Mr. Huber moved to begin initiation of amendments to the regulations. The motion was seconded and carried unanimously.

OPEN FORUM:

No one was present.

Ms. Davis left the meeting.

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS:

CLOSED SESSION:

Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 1:40 P.M. for the purpose of consideration of the recommendation of the agency subordinate. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Ressler, Ms. Cochran and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 2:00 P.M.

Mr. Huber moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Eunice M. Burse, C.N.A. 1401-002778

Ms. Burse did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate for Ms. Burse to have an evaluation by a chemical dependency specialist satisfactory to the Board and have a written report of the evaluation sent to the Board within sixty days after the Order is final.
The motion was seconded and carried unanimously.

Tammy Lu Baker, L.P.N. 0002-054531

Ms. Baker did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate to indefinitely suspend the right to renew the practical nurse license of Ms. Baker for a period of not less than two years.
The motion was seconded and carried unanimously.

Vicki Allison Schmidt, L.P.N. 0002-049441

Ms. Schmidt did not appear.

Ms. Hanes moved to accept the recommended decision of the agency subordinate to indefinitely suspend the right to renew the practical nurse license of Ms. Schmidt for a period of not less than two years.
The motion was seconded and carried unanimously.

Lenor G. Wallace, L.P.N. 0002-040731

Ms. Wallace did not appear.

Ms. Hale moved to accept the recommended decision of the agency subordinate to indefinitely suspend the right to renew the practical nurse license of Ms. Wallace for a period of not less than two years.
The motion was seconded and carried unanimously.

Shannon M. Patrick, R.N. 0001-135260

Ms. Patrick did not appear.

Dr. Selig moved to accept the recommended decision of the agency subordinate to indefinitely suspend the right to renew the professional nursing license of Ms. Patrick for a period of not less than two years.
The motion was seconded and carried unanimously.

Dorothy B. Gibbs, L.P.N. 0002-049121

Ms. Gibbs did not appear.

Ms. Cooper moved to accept the recommended decision of the agency subordinate for Ms. Gibbs to have an evaluation by a chemical dependency specialist satisfactory to the Board and have a written report of the evaluation sent to the Board within sixty days after the Order is final.
The motion was seconded and carried unanimously.

CASE ADJUDICATION: **Consent Orders:**

CLOSED SESSION: Mr. Huber moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 2:10 P.M. for the purpose

of consideration and discussion of consent orders. Additionally, Mr. Huber moved that Ms. Douglas, Ms. Ressler, Ms. Cochran and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 2:25 P.M.

Mr. Huber moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Rhonda Ragand Nairn Bikowski, R.N. 0001-173562

Ms. Cooper moved to accept the Consent Order for the voluntary surrender of Ms. Bikowski's license and to indefinitely suspend the right to renew her license. The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Patricia W. Clement, L.P.N. 0002-023509

Ms. Spady moved to accept the Consent Order for the indefinite suspension of Ms. Clements practical nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Kelly S. Critzer, L.P.N. 0002-056337

Dr. Selig moved to accept the Consent Order for indefinite suspension of Ms. Critzer's practical nurse license, stay said suspension contingent upon six months compliance with a recovery monitory contract with the Health Practitioners Intervention Program.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Rhonda K. Dillon, L.P.N. 0002-051676

Ms. Spady moved to accept the Consent Order for indefinite suspension of Ms. Dillon's practical nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Lisa M. McIntyre, L.P.N. 0002-056857

Ms. Cooper moved to accept the Consent Order for the voluntary surrender and indefinite suspension of Ms. McIntyre's practical nurse license.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Diane Hake, R.N. 0001-173517

Ms. Hale moved to accept the Consent Order to indefinitely suspend the registered nurse license of Ms. Hake.
The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Denise Vigo, R.N. 0001-154040

Mr. Horn moved to accept the Consent Order to indefinitely suspend the professional nursing license of Ms. Vigo, stay said suspension contingent upon six months compliance with a recovery monitoring contract with the Health Practitioners Intervention Program.

EDUCATION
PROGRAMS:

Education Special Conference Committee:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on September 19, 2005.

Ms. Hale moved that the Board of Nursing adopt the recommendations.
The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 2:30 P.M.

Gregory J. Huber, R.N., M.S.N.
Secretary

Note - Copies of reports referenced can be obtained by contacting the Board of Nursing office.